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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
HAWAII**

CORY KAHALEWAI

Plaintiff,

vs.

HONOLULU CITY AND  
COUNTY,

Defendant.

CIVIL NO. CV24-00323 JAO/RT

PLAINTIFF COREY KAHALEWAI'S  
SEPARATE AND CONCISE  
STATEMENT OF FACTS IN  
OPPOSITION TO DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT; DECLARATION OF  
KEVIN O'GRADY; EXHIBITS 1-2;  
CERTIFICATE OF SERVICE

Trial Date: None

PLAINTIFF COREY KAHALEWAI'S SEPARATE AND CONCISE  
STATEMENT OF FACTS IN OPPOSITION TO DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT

Plaintiff Corey Kahalewai (“Kahalewai”), pursuant to Fed. R. Civ. P. 56 and LR 56.1(c), respectfully submits the following separate concise statement of facts in opposition to Defendant’s motion for summary judgment.

DATED: Honolulu, Hawaii, August 29, 2024.

By /s/ Kevin O’Grady  
KEVIN O’GRADY  
Attorney for Plaintiff

By /s/ Alan Beck  
ALAN BECK  
Attorney for Plaintiff

**PLAINTIFF’S RESPONSE TO DEFENDANT’S SEPARATE  
AND CONCISE STATEMENT OF FACTS**

<b><u>MATERIAL FACT</u></b>	<b><u>CITATION</u></b>
<p>1. On March 1, 2024, Plaintiff Kahalewai – along with two individuals and an organization – sued the City in <i>Nelson et al. v. Honolulu City and County</i>, Civ. No. 1:24-CV-00100 MWJS-RT (ECF Dkt. 1)- Admit</p>	<p>Gluck Decl., Ex. 1 PDF 1, 70 (<i>Nelson</i> Complaint)- Admit</p>
<p>2. The allegations and the operative facts in the <i>Nelson</i> case and this case are nearly identical. - <b><u>DENY</u></b></p>	<p>Gluck Decl., Ex. 1 (<i>Nelson</i> Complaint) at:  PDF 2 ¶2-Admin  PDF 4-5 ¶4-<b><u>DENY</u></b>  PDF 5-6 ¶10- Admit  PDF 13 ¶27 and n.1; ¶ 27 Admit-n.1 <b><u>DENY</u></b>  PDF 15 ¶¶35-36- ¶ 35 Admit, ¶ 36 <b><u>DENY</u></b>  PDF 56 ¶¶46-47-¶ 46 <b><u>DENY</u></b> ¶ 47 Admit  PDF 57 ¶49 and n.8, ¶50- ¶ 49 Admit n.8 <b><u>DENY</u></b> PDF 60 ¶64- Admit  PDF 61 ¶¶68-71- Admit  PDF 67 ¶99-100, 102;- ¶ 99 <b><u>DENY</u></b> ¶ 100- Admit ¶ 102 Admit  PDF 68-69 ¶108- Admit  PDF 69 ¶109 and ¶¶1, 3- ¶ 109 Admit, ¶ 1 Admit ¶ 3 <b><u>DENY</u></b>  <i>Id.</i>, Ex. 4 (<i>Kahalewai</i> Complaint, also available at ECF 1) at:  PDF 2 ¶1- Admit  PDF 3 ¶5- Admit  PDF 5 ¶7- <i>Admit including footnotes 2 and 3</i>  PDF 14 ¶26 and n.4- Admit  PDF 17 ¶¶34-35- Admit</p>

	<p>PDF 21 ¶46- Admit</p> <p>PDF 22 ¶47- Admit</p> <p>PDF 22-23 ¶49- <b>Admit including footnotes 15 and 16</b></p> <p>PDF 24 ¶50 and n.16- Admit- n.16 is attached to ¶49</p> <p>-PDF 25 ¶¶5-61- ¶61 Admit</p> <p>PDF 26 ¶¶65-68- Admit</p> <p>PDF 31 ¶¶85-86, 88-Admit</p> <p>PDF 33 ¶¶97-98 and ¶1 – Admit</p> <p>PDF 34 ¶5- Admit</p>
<p>3. At the time Kahalewai filed the Complaint in <i>Nelson</i> in March 2024, he alleged that his License application had been pending since 2023 and that the City was unlawfully prohibiting him from carrying a firearm in public. (Principal examples in bold.)- Admit</p>	<p>Gluck Decl., Ex. 1 (<i>Nelson</i> Complaint) at:</p> <p>PDF 2 ¶2- Admit</p> <p>PDF 4-5 ¶8- Admit</p> <p>PDF 5-6 ¶10 – Admit</p> <p>PDF 13 ¶27 n.1- Admit</p> <p>PDF 15 ¶¶35-36- Admit</p> <p>PDF 56 ¶¶46-47- Admit</p> <p>PDF 57 ¶49 and n.8, ¶50- ¶49 and n.8 Admit ¶ 50 Admit</p> <p>PDF 60 ¶64- Admit</p> <p>PDF 61 ¶¶68-72 – Admit</p> <p>PDF 65 ¶89 n.12- Admit</p> <p>PDF 67 ¶¶99-100, 102- Admit</p> <p>PDF 69 ¶109 and ¶¶1, 3- Admit</p>

<p>4. Kahalewai makes the same claims here. (Principal examples in bold.)- <b><u>DENY</u></b></p>	<p>Gluck Decl., Ex. 1 (<i>Nelson</i> Complaint) (see CSOF #3 for page numbers)- <b><u>DENY</u></b>          Gluck Decl., Ex. 4 (<i>Kahalewai</i> Complaint) at: <b>PDF 2 ¶1- Admit</b>  <b>PDF 3 ¶5- Admit</b>  <b>PDF 5 ¶7- <u>DENY as to footnote 3 in ¶7</u></b>  <b>PDF 17 ¶¶34-35- Admit</b>  <b>PDF 21 ¶46-Admit</b>  <b>PDF 22-23 ¶49 and n.16 -<u>DENY</u></b>  <b>PDF 25 ¶¶59-61- ¶59 <u>DENY</u>, ¶60- Admit , ¶61 <u>DENY</u></b>  <b>PDF 26 ¶¶65-68- Admit</b>  <b>PDF 31 ¶¶85-86, 88- ¶85 <u>DENY</u>, ¶86- Admit, ¶88 - Admit</b>  <b>PDF 33 ¶¶97-98 and ¶1-¶97 <u>DENY</u> ¶98- Admit ¶1- Admit</b>  <b>PDF 34 ¶5- <u>DENY</u></b></p>
<p>5. Kahalewai and the other plaintiffs in <i>Nelson</i> settled their case with the City.- Admit</p>	<p>Gluck Decl., Ex. 2 (<i>Nelson</i> Stip.)- Admit</p>
<p>6. On May 10, 2024, this Court (the Hon. Micah Smith presiding) approved and ordered stipulation and stipulated judgment with a release.- Admit</p>	<p>Gluck Decl., Ex. 2 (<i>Nelson</i> Stip.)          PDF 1, 9, 10- Admit</p>
<p>7. In the first lawsuit, Kahalewai sued the City because the City had not issued him a License after he submitted application materials in May and September 2023.- <b><u>DENY</u></b></p>	<p><i>See</i> CSOF #3- <b><u>DENY as indicated above</u></b></p>
<p>8. In the current lawsuit, Kahalewai is suing the City because the City had not issued him a License after he submitted application materials in May and September 2023.- Admit</p>	<p><i>See</i> CSOF #4- <b><u>DENY as indicated above</u></b></p>

<p>9. In both cases Kahalewai attacks the HPD's allegedly unconstitutional use of discretion in analyzing his May and September applications. <b><u>DENY</u></b></p>	<p>Gluck Decl., Ex. 1 (<i>Nelson</i> Complaint) at:  PDF 5-6 ¶10- Admit  PDF 13 ¶27 and n.1- Admit  PDF 57 ¶49 and n.8, ¶50-Admit  PDF 60 ¶64- Admit  PDF 64-65 ¶89-Admit</p> <p><i>Id.</i>, Ex. 4 (<i>Kahalewai</i> Complaint)  PDF 3 ¶6- Admit</p> <p>PDF 5 ¶7-Admit  PDF 6 ¶8 and n.3- Admit  PDF 14 n.4- Admit  PDF 22-23 ¶49 and n.16- Admit  PDF 23 ¶50- Admit  PDF 25 ¶¶58-60- Admit  PDF 31 ¶87- Admit  PDF 33 ¶97-Admit</p> <p>PDF 34 ¶6- Admit</p>
<p>10. Kahalewai's current Complaint alleges that the City's administrative rules are unconstitutional, both facially and as applied to him.- Admit</p>	<p>Gluck Decl., Ex. 4 (<i>Kahalewai</i> Complaint) PDF 25 ¶61- Admit</p>
<p>11. Kahalewai brought the same claims in the <i>Nelson</i> case.-<b><u>DENY</u></b></p>	<p>Gluck Decl., Ex. 1 (<i>Nelson</i> Complaint)  PDF 68-69 ¶¶108-109- <b><u>DENY</u></b></p>
<p>12. Kahalewai released these claims.-<b><u>DENY</u></b></p>	<p>Gluck Decl., Ex. 2 (<i>Nelson</i> Stip.) PDF 9-10- <b><u>DENY</u></b></p>
<p>13. The City's administrative rules were in effect at the time of the Stipulated Judgment (May 10, 2024).- Admit</p>	<p>Gluck Decl., Ex. 5 (2022 Rules) (full version at ECF 1-1)- Admit  <i>Id.</i> Ex. 6 (2024 Rules) (full version at ECF 1-2)- Admit</p>
<p>14. On March 20, 2024 – after the <i>Nelson</i> Complaint (March 1) but before the <i>Nelson</i> Stipulation (May 10) – HPD issued a letter to Kahalewai, notifying Kahalewai that his License application had been denied.- Admit</p>	<p>Gluck Decl., Ex. 3 (3/20/24 letter) (also avail. at ECF 1- 3) PDF 2- Admit  <i>Id.</i>, Ex. 4 (<i>Kahalewai</i> Complaint) PDF 26 ¶67- Admit</p>

15. Kahalewai apparently believes this letter gives rise to a new lawsuit, but the new lawsuit makes the exact same claim as the old lawsuit: that the City violated Kahalewai's rights by preventing him from carrying a firearm outside his home.-Agree as to Kahalewai believes, otherwise <b><u>DENY</u></b>	See CSOF #3, CSOF #4, CSOF #9- <b><u>DENY</u></b>
16. The delay and the denial arose from the same facts.- <b><u>DENY</u></b>	Lau Decl. ¶¶6, 8, 12, 14- <b><u>DENY</u></b>
17. HPD personnel made the determination that Kahalewai did not meet the Rules' requirements (both the 2024 rule, § 21-15-19(f), and its 2022 predecessor, § 15-23(1)).- <b><u>DENY</u></b>	Lau Decl. ¶¶7-9.- <b><u>DENY</u></b>
18. That determination was the reason for the delay at the heart of the <i>Nelson</i> case.- <b><u>DENY</u></b>	Lau Decl. ¶¶11-12- <b><u>DENY</u></b>
19. Had Kahalewai not settled the <i>Nelson</i> case, but instead proceeded with discovery, he could have learned the reason why his application had been delayed.- <b><u>DENY</u></b>	Lau Decl. ¶¶11-12 Gluck Decl, Ex. 2 (Nelson Stip.) PDF 9- <b><u>DENY</u></b>
20. Kahalewai learned the reasons for the delay in his application via the March 20 letter prior to settling <i>Nelson</i> .- Admit	Lau Decl. ¶¶11-12- <b><u>DENY</u></b> Gluck Decl., Ex. 2 ( <i>Nelson</i> Stip.) PDF 10- Admit <i>Id.</i> , Ex. 3 (3/20/24 letter) PDF 2- Admit <i>Id.</i> , Ex. 4 ( <i>Kahalewai</i> Complaint) PDF 26 ¶67- Admit
21. Kahalewai's challenge in this case "aris[es] from" and is "associated with" the facts alleged in <i>Nelson</i> .- <b><u>DENY</u></b>	Lau Decl. ¶¶6-12- <b><u>DENY</u></b> Gluck Decl., Ex. 1 ( <i>Nelson</i> Complaint) PDF 2 ¶2- Admit PDF 5-6 ¶10- Admit PDF 56 ¶46- <b><u>DENY</u></b> PDF 61 ¶¶ 68-72- ¶¶ 68-71 Admit, ¶ 72- <b><u>DENY</u></b> <i>Id.</i> , Ex. 2 ( <i>Nelson</i> Stip.) PDF 9-10-

	<p><b><u>DENY</u></b>  <i>Id.</i>, Ex. 4 (<i>Kahalewai</i> Complaint)  PDF 2 ¶1- Admit  PDF 5 ¶7- Admit  PDF 26 ¶¶65-68- Admit  PDF 34 ¶5- <b><u>DENY</u></b></p>
22. On July 31, 2024, Kahalewai and his counsel filed the instant lawsuit.- Admit	Gluck Decl., Ex. 4 ( <i>Kahalewai</i> Complaint) PDF 1, 34- Admit

**CERTIFICATE OF WORD COUNT**

Pursuant to L.R. 7.4, I certify that this statement contains 1181 words, calculated using Microsoft Word's word count, and therefore complies with Local Rule 56.1(c).

DATED: Honolulu, Hawaii, August 29, 2024.

By /s/ Kevin O'Grady  
KEVIN O'GRADY  
Attorney for Plaintiff

By /s/ Alan Beck  
ALAN BECK  
Attorney for Plaintiff